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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,029	07/06/2001	Gary P. Cote		6055

7590 10/05/2006  
James C. Wray  
Suite 300  
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EXAMINER

SICONOLFI, ROBERT

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/899,029

Applicant(s)

COTE, GARY P.

Examiner

Robert A. Siconolfi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-18, 25, 26, 28 and 30-47 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17, 18, 37 and 38 is/are allowed.
- 6) ☒ Claim(s) 3-15, 25, 26, 28, 30-36 and 39-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

The following action is in response to the decision and remand from the BPAI issued on 3/30/06.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 31,32, 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Krauer.

Krauer discloses a twist type handle, brake cable.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over disclosure of Krauer.

. Although Krauer does not specifically mention that the twist-type brake control handle is capable of stopping a vehicle upon making a quarter turn of the handle, it teaches

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that 180° of rotation or less than 180° of rotation of the handle member (inclusive of the claimed quarter turn of the handle) may be used to exert full braking force, i.e., stop a bicycle (vehicle) as indicated supra,.

Thus, we determine that it can be inferred from Krauer that it is well within the ambit of one of ordinary skill in the art to make an appropriate adjustment to brakes so that a twist-type brake control handle can exert full braking force via workable or optimum rotation such as that claimed. See, e.a., *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). It follows that Krauer would have rendered the claimed functionally defined twist-type handle obvious to one of ordinary skill in the art within the meaning of 35 U.S.C. § 103(a).

5. Claims 3- 15, 46, are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyazaki in view of Krauer.

As to parent claim(s) 46, 47; Miyazaki discloses a brake cable; drum brake, brake shoes in the fourth complete paragraph of column 12. Miyazaki does not disclose a twist type handle. Further, Miyazaki does not disclose the particular variations recited in claims 3 - 8; and further variations as recited in claim(s) 9 - 15. Krauer is relied upon merely to show that it is known in the art to provide a twist-type control handle ( third complete paragraph in column 2 ). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the wheelbarrow of Miyazaki with a twist-type control handle like that of Krauer in order to activate braking

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without losing contact with the handle. It would have been an obvious matter of design choice dependent on cost and equipment availability considerations to provide the brake of Miyazaki with steel, plastic materials, and with sealing and mounting plates, et al ( as recited in claim(s) 3 - 8 ) in order to optimize the cost.

It would have been an obvious matter of design choice dependent on cost and equipment availability considerations to provide the brake of Miyazaki with variations in twist type handles, locking means ( as recited in claim(s) 9 - 15 ); in order to provide a higher degree of versatility.

6. Claims 25,26,47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyazaki in view of Krauer and Burbank.

Miyazaki, as modified, is relied upon as above in paragraph 5. Miyazaki, as modified, does not teach the use of a frame mounted caliper and disk brake. Burbank teaches the use of a frame mounted caliper and disk brake on a wheelbarrow. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a disc brake as taught by Burbank in the wheelbarrow of Miyazaki, as modified, as the choice of brake types is based on weight, cost, ease of assembly and repair and environment used therein as well as other engineering factors. Disk brakes are lighter and more reliable in wet conditions than drum brakes.

7. Claim 28 is rejected under 35 U.S.C. § 103 as being unpatentable over Miyazaki in view of Krauer.

Miyazaki in view of Krauer discloses all the structure of the claimed device

as detailed above: except for the wheelbarrow utilizing two wheels; and a drum brake in the center as recited in claim 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize two wheels; since the examiner takes Official Notice that two wheel wheelbarrows are known in the brake art and it would be within the level of ordinary skill in the art for a routineer to utilize two wheels in Miyazaki, as a design variation improving the cost or capability of Miyazaki. It would have been a further obvious matter of design choice dependent on cost and utility considerations to provide the wheelbarrow of Miyazaki with a drum brake mounted in the center of the axle.

8. Claims 35, 36 are rejected under 35 USC 103 as being unpatentable over Krauer in view of Patterson (U. S. Patent no. 3,950,005)

Krauer discloses all the structure of the claimed device as detailed above: except for a clipper. Patterson discloses a clipper means ( figure 3 pin 38b which clips into slot 39) It would have been an obvious matter of design choice dependent on utility considerations to provide Krauer with a clipper as taught by Patterson in order to lock the handle at desired positions.

9. Claims 39- 42 are rejected under 35 U.S.C. § 103 as being unpatentable over Krauer in view of Miyazaki.

Krauer in view of Miyazaki discloses all the structure of the claimed device as detailed above: except for a drum brake and associated structures. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize drum brakes; since the examiner takes Official Notice that drum brakes are

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known in the brake art and it would be within the level of ordinary skill in the art for a routineer to combine such drum brakes with Krauer in view of Miyazaki as a design variation improving the cost and capability of Krauer in view of Miyazaki. It would have been a further obvious matter of design choice dependent on cost and equipment availability considerations to provide the brake of Krauer in view of Miyazaki with a brake arm, internal drum, backing plate.

10. Claims 43 44 are rejected under 35 U.S.C. § 103 as being unpatentable over Krauer in view of Miyazaki and Burbank (U. S. Patent no. 5,690,191).

Krauer in view of Miyazaki discloses all the structure of the claimed device as detailed above: except for a frame mounted caliper with a wheel disc. Burbank teaches the use of disc brakes with frame mounted calipers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a frame mounted caliper with a wheel disc as taught by Burbank and it would be within the level of ordinary skill in the art for a routineer to combine such a frame mounted caliper having a wheel disc, with Krauer in view of Miyazaki and Burbank as a design variation improving the cost and capability of Krauer in view of Miyazaki.

11. Claim 45 is rejected under 35 U.S.C. § 103 as being unpatentable over Krauer in view of Miyazaki.

Krauer in view of Miyazaki discloses all the structure of the claimed device as detailed above: except for the claimed apparatus utilized in a wheelbarrow. It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to utilize the claimed apparatus in a wheelbarrow; since the examiner takes Official Notice that wheelbarrows are known in the brake art and it would be within the level of ordinary skill in the art for a routineer to utilize the structure of Krauer in view of Miyazaki in a wheelbarrow, as a design variation improving the cost or utility of Krauer in view of Miyazaki.

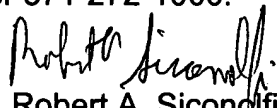
12. Claim(s) 17, 18, 37, 38 are allowed.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Siconolfi whose telephone number is 571-272-7124. The examiner can normally be reached on M-F 10 am-3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on 571 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert A. Siconolfi  
Primary Examiner  
Art Unit 3683

9/30/06

RS